

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

<p>HAYKEL JAIDANE, Individually and as Natural Parent and Guardian of M.J. and A.J. 40006 Cambridge Street, Apartment 104 Canton, Michigan 48127</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>UNION TANK CAR COMPANY c/o United States Corporation Company 50 West Broad Street, Suite 1330 Columbus, Ohio 43215</p> <p style="text-align: center;">Defendant.</p>	<p>) Case No.: 3:20-cv-293</p> <p>)</p> <p>) Judge:</p> <p>)</p> <p>) PLAINTIFF’S COMPLAINT</p> <p>) With Jury Demand Endorsed Hereon</p> <p>)</p> <p>) Charles E. Boyk, Esq. (0000494)</p> <p>) Kathleen R. Harris (0088079)</p> <p>) Charles E. Boyk Law Offices, LLC</p> <p>) 405 Madison Avenue, Suite 1200</p> <p>) Toledo, Ohio 43604</p> <p>) Telephone: (419) 241-1395</p> <p>) Facsimile: (419) 241-8731</p> <p>) cboyk@charlesboyk-law.com</p> <p>) kharris@charlesboyk-law.com</p> <p>)</p> <p>) <i>Attorneys for Plaintiff</i></p>
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COMPLAINT AT LAW

Plaintiff Haykel Jaidane, Individually and as Natural Parent and Guardian of M.J. and A.J., his minor children, brings this Complaint against Defendant Union Tank Car Company for personal injuries and damages sustained by Plaintiff Haykel Jaidane during an unloading incident at Defendant’s Marion, Ohio location, and loss of consortium injuries sustained by M.J., and A.J. In support of his claims, Plaintiff states as follows:

THE PARTIES

1. Plaintiff Haykel Jaidane and his minor children M.J. and A.J. are individuals and residents of Canton, Michigan.
2. Upon information and belief, Defendant Union Tank Car Company is a corporation that provides railway tank car services, including leasing, manufacturing, and repair services, and which is organized under the laws of the State of Delaware, has its principal place of business in Chicago, Illinois, and operates a manufacturing plant in Marion, Marion County, Ohio.

JURISDICTION AND VENUE

3. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
4. This Court has original jurisdiction over this matter under 28 U.S.C. § 1332 because Plaintiff's citizenship is diverse from the Defendant's and because the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00).
5. Venue is proper in this Court under 28 U.S.C. § 1391(b) because the injury described herein occurred in Marion County, Ohio, which is located in this judicial district.

FACTUAL ALLEGATIONS

6. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
7. On or about October 22, 2019, 46-year-old self-employed truck driver Plaintiff Haykel Jaidane hauled a load of steel sheet bundles from Chicago Heights, Illinois to Defendant Union Tank Car Company's facility located at 1207 Cheney Avenue, Marion, Ohio 43302.
8. At approximately 11:00 p.m., Haykel advised Union Tank employees and/or agents that his truck was ready to be unloaded and backed into the unloading area.

9. It was Plaintiff Haykel Jaidane's understanding that Union Tank was responsible for unloading and that as the truck driver, he was not supposed to be involved with it.
10. Despite this, Union Tank crane operators directed Haykel to get on the trailer and assist them with unloading the sheet metal using a crane. Otherwise, the Union Tank employees and/or agents would not unload the truck.
11. After putting on a hard hat and gloves, Haykel Jaidane got on the trailer. A Union Tank crane operator and spotter involved in unloading then instructed Mr. Jaidane in how to guide the "shoes" of the sheet lifter under the steel, and then turn a hand wheel to secure the sides.
12. On the first load, Mr. Jaidane had no issues. He guided the lift under the steel and secured it by turning the wheel, then backed away and gave a thumbs up signal while the load was lifted off the trailer.
13. On the second load, Plaintiff Haykel Jaidane was in the process of checking that the left side of the load was secure and told the crane operator that it was not hooked properly. Mr. Jaidane did not clear the crane operator, but the operator said it was fine and that the steel would straighten when he lifted it. Haykel Jaidane explicitly told the crane operator to hang on while he looked and told him multiple times not to move the crane, but the operator ignored him and lifted the load, knocking Mr. Jaidane from the trailer to the ground.
14. Haykel landed hard on his left side and felt like the wind had been knocked out of him. Union Tank employees helped him up and called 911, and Plaintiff Haykel Jaidane was then transported to the hospital, where he began treating for serious and permanent personal injuries.
15. Plaintiff Haykel Jaidane's injuries include but are not limited to a lacerated left lung and collapsed left lung with blood in it, multiple contusions to his lung, multiple left rib fractures,

a fractured left clavicle, and multiple transverse process fractures at L1-L3 and T1. He has undergone numerous surgeries and faces substantial future medical care.

FIRST CAUSE OF ACTION
(Negligence)

16. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
17. Defendant Union Tank Car Company had a duty to ensure that materials were safely unloaded from Mr. Jaidane's vehicle in a manner that would not cause harm to him, and to adhere to all applicable safety regulations and standard industry practices involving loading and unloading and crane operation.
18. Defendant Union Tank Car Company breached its duties by improperly requiring Plaintiff Haykel Jaidane's assistance with unloading, by ignoring Mr. Jaidane's warning that the load was not secured, by lifting the load without ensuring it was properly secured, by knocking Mr. Jaidane to the ground, and by failing to adhere to all applicable safety regulations and standard industry practices involving loading and unloading and crane operation.
19. As a direct and proximate result of Defendant's negligence and breach of its duties of care, Plaintiff Haykel Jaidane sustained serious and permanent personal injuries, including but not limited to a lacerated left lung and collapsed left lung with blood in it, multiple contusions to his lung, multiple left rib fractures, a fractured left clavicle, and multiple transverse process fractures at L1-L3 and T1. These injuries required medical care and hospital care, including numerous surgical procedures, and Plaintiff incurred substantial medical and hospital care costs, along with wage loss and other economic loss, pain and suffering, mental anguish, and emotional distress.

20. Further, Plaintiff Haykel Jaidane believes his injuries are permanent in nature and will require future medical care and future medical care costs, and that he will continue to endure great pain, suffering, mental anguish, and emotional distress.

SECOND CAUSE OF ACTION
(Loss of Parental Consortium of Plaintiffs M.J. and A.J.)

21. Plaintiff incorporates by reference each preceding and succeeding paragraph as though fully rewritten herein.
22. Plaintiffs M.J. and A.J. are the minor children of Plaintiff Haykel Jaidane.
23. Plaintiffs M.J. and A.J. state that as a result of Defendant's negligence, they have been deprived of the love, affection, services, consortium, and society of their father, Plaintiff Haykel Jaidane.
24. Plaintiffs M.J. and A.J. further state that as a result of the Defendant's negligence, their enjoyment and quality of life and their ability to carry on the normal activities of their daily life with their father have been impaired.

WHEREFORE, Plaintiff prays for judgment against Defendant Union Tank Car Company on each of the above-stated causes of action in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.00), together with interest, cost, and reasonable attorney fees associated herewith, and such other relief as the Court may deem just.

Respectfully submitted,

/s/ Kathleen R. Harris
Charles E. Boyk
Kathleen R. Harris
Attorneys for Plaintiffs

JURY DEMAND

Plaintiff demands a trial by jury on all issues triable by right.

/s/ Kathleen R. Harris
Charles E. Boyk
Kathleen R. Harris
Attorneys for Plaintiff